I

File No. AFD 97 FGL 70

MYSORE GOVERNMENT SECRETARIAT

Notes/Correspondence/Collection

Department AH Section Forest B'

Subject :— Forest Defn. Belgaum Dist - Ghataprabha - Mangatti village - S. No 342 - Request of M/s N. Jivanlal & Co for raising nursery to grant additional 50 acres of land ~~for establishing factory~~.

Earlier References :—

Later References :— AFD. 417 FGL 70.

9-3-70

12/7/71

(Classification A/B/C)

Notes Pages.....

Correspondence Pages.....

For/Not for Section Note Book

To be destreyed after.....

Under Secretary to Government.

Vatsala S.e 1.4.04

(ವತ್ಸಲಾ ಎಸ್.ಇ)
ಸಹಾಯಕ ಅರಣ್ಯ ಸಂರಕ್ಷಣಾಧಿಕಾರಿ,
ಅರಣ್ಯ, ಜೀವಿ ಮತ್ತು ಪರಿಸರ ಇಲಾಖೆ,
(ಬೆಂಗಳೂರು).

23

2

FORM No. 1.

GOVERNMENT OF MYSORE

No. GAD 2005 A GA 70

MYSORE GOVERNMENT SECRETARIAT,
VIDHANA SOUDHA,
Bangalore, Dated 25-2-70 1969.

IMMEDIATE

From

The Chief Secretary to the Government of Mysore
Bangalore.

To

The Registrar,
High Court of Mysore.
Bangalore.

Sir,

Sub: W.P./~~CRP~~/MFA/C.P. No. 685 of 70

On the file of High Court of Mysore

M.Manje Gowda,
Agriculturist, R/o Siragura Village,
Arehalli Hobli, Belur Taluk,
Hassan District.

Vs. State of Mysore

I am directed to acknowledge the receipt of the Notice in the above case forwarded with your letter No. 1515/P Dated 18-2-70 and to state that it has been forwarded to the Department of Law and Parliamentary Affairs for disposal.

The Original Notice is returned herewith after due service.

Yours faithfully,

M. Chikkanna

(M.Chikkanna)

For *Under Secretary to Government,*
General Administration Department,
General-A and State Protocol Officer.

Copy with the duplicate, notice petition and affidavit in the above case is forwarded for disposal to the Department of Law and Parliamentary Affairs. A & F

Copy to the Secretary to Government Department,

The subject matter may pl. be indicated to Govt. Law Section to which this W.P. pertains

WD 05027—GPB—100 pads of 100 shts. each—17-1-68

8106/70

3

The subject matter of this petition regarding grant of Forest land. Wether this information has MP may be delivered to Ajit Singh

16/3/20.

A.J.T.

MP Singh 16.3.20

L.D.

16/3/20

2705/civil/70
+1515/P
20/2/70

IN THE HIGH COURT OF MYSORE AT BANGALORE

DATED THE 13TH DAY OF FEBRUARY 1970

PRESENT

THE HON'BLE MR.JUSTICE K.R.GOPIVALLABHA IYENGAR

AND

THE HON'BLE MR.JUSTICE M.SATANANTA SWAMY

WRIT PETITION NO.685 OF 1970.

(WITH STAY) W. G. S.

G. A. D. (Genl-A No 2006 Date 23/2/70

13932

M.Kanje Gowda, son of Jule Gowda, aged about 50 years, Vokkaligar, Agriculturist, resident at Sirugura village, Arehalli Hobli, Belur Taluk, Hassan District. .. PETITIONER.

And:

1. State of Mysore by its Chief Secretary to Government, Vidhana Soudha, Bangalore-1.

2. The Tahsildar, Belur Taluk, Belur.

3. B.N.Krishnappa, son of P. Manjundappa, aged about 70 years, Contractor and Coffee Planter, resident of Mudagere, Chikmagalur District. .. RESPONDENTS.

Writ Petition filed under article 226/227 of the Constitution of India, by Sri S.K.Venkataranga Iyengar, Sri Maloor Subbarao and Sri M.T.Shankaregowda, Advocates for the petitioner praying for the reasons sworn to in the affidavit annexed to the said Petition that a) to quash by the issue of a writ of certiorari the impugned order of Govt.No.AFT. 100 FCL 68 Bangalore dated the 17th December, 1969 marked Ext.'C' and by the issue of a writ of mandamus to direct the Govt.to pass orders for disposal of S.No.96 of Bakkaravalli village for purposes of coffee plantation in accordance with the Land Grant Rules taking into consideration the petitioner's application for the grant of the same having regard to the fact that the petitioner is a landless person;

b) to issue a similar writ or direction directing the Tahsildar (2nd respondent), Belur Taluk to dispose of the petitioner's darkhast application for the grant of S.No. 96 in accordance with the land Grant Rules;

c) to pass an interim order pending disposal of the writ, to stay the operation of the impugned order of the Government dated 17.12.1969 aforesaid marked Exhibit 'C'.

ORDER.

IT IS ORDERED that pending disposal of this Writ Petition; operation of the order dated 17-12-69 in no.AFT 100 FGL 68 passed by the aforesaid 1st respondent be and the same is hereby stayed.

AND IT IS FURTHER ORDERED that notices of this petition do issue to the respondents abovenamed.

19.2.70

III Deputy Registrar.

To

1. State of Mysore by its Chief Secretary to Government of Mysore, Vidhana Soudha, Bangalore-1.

2. The Tahsildar, Belur Taluk, Belur.

Please acknowledge receipt of this order.

krk/3.

THE SEAL OF THE HIGH COURT

25 S/No 1 6 3

FORM No. 2.

GOVERNMENT OF MYSORE

No. GAD 2006 GA 70

MYSORE GOVERNMENT SECRETARIAT,
VIDHANA SOUDHA,

IMMEDIATE.

Bangalore, Dated 25-2-70 1969

From

The Chief Secretary to the Government of Mysore,
Bangalore.

To

The Registrar,
High Court of Mysore,
Bangalore.

G. & L. SECTION
A.&F.
No. 08303
Date 26 FEB 1970
Section

Sir,

430/7 PM 70

Sub:—WP / ~~CRP/MFA/CP~~ No 685 of 70
on the file of High Court of Mysore

M.Manje Gowda,
Agriculturist, R/o Sirugura
Village, Arehalli Hobli, Belur
Taluk, Hassan District.

Vs. The State of Mysore

Ref:—Your Endorsement No 2705/Civil/70 dated 20-2-70

I am directed to acknowledge the receipt of the INTERIM ORDER passed by the High Court of Mysore in the above case.

Yours faithfully,

M. Chikkanna
(M.Chikkanna)

For *Under Secretary to Government,*
General Administration Department,
General A & State Protocol Officer.

Copy together with the Order, referred to above are forwarded to the Secretary to Government
A & F
Department, for immediate action.

Copy to the Department of Law and Parliamentary Affairs.

WD 05028—GPB—100 pads of 100 shts. each—17-1-69

Sl. No. 2

Sub: W.P. 685/70, Sri M. Manje Gowda Vs State. Dispute regarding disposal of land in S. No. 96 of Bhakkamalli Belur Tq. Hassan Dist

AFD. 90. FGL 70

CSF,

I am enclosing a copy of Interim Order passed by the High Court of Mysore, in respect of the W.P. mentioned above, dated 13.2.70 I am directed to request you to take immediate action in the matter.

Apt 2 cy

ISSUED
Dated 4/3/70

7/7

3/3/70
S.O. 4 Gr

8

Copy IN THE HIGH COURT OF MYSORE AT BANGALORE

DATED THE 13TH DAY OF FEBRUARY 1970.

PRESENT

THE HON'BLE MR. JUSTICE K.R.GOPIVALLABHA IYENGAR
AND
THE HON'BLE MR. JUSTICE M. SADANANDA SWAMY.

WRIT PETITION NO.685 OF 1970
(WITH STAY)

M.Manje Gowda, son of Jule Gowda, aged about 50 years, Vokkaligar, Agriculturist, resident of Sirugura village, Arehalli Hobli, Belur Taluk, Hassan District. .. PETITIONER

AND:

1) State of Mysore by its Chief Secretary to Government, Vidhana Soudha, Bangalore-1.

2) The Tahsildar, Belur Taluk, Belur.

3) B.N.Krishnappa, son of P. Nanjundappa, aged about 70 years Contractor and Coffee Planter, resident of Mudagere, Chikmagalur District. .. RESPONDENTS.

Writ Petition filed under Article 226/227 of the constitution of India, by Sri S.K.Venkataranga Iyengar, Sri Maloor Subbarao and Sri N.T.Shankaregowda, Advocates for the petitioner praying for the reasons sworn to in the affidavit annexed to the said petition that a) to quash by the issue of a writ of certiorari the impugned order of Government No. AFD 100 FGL 68 Bangalore dated the 17th December 1969 marked ext.'C' and by the issue of a Writ of mandamus to direct the Government to pass orders for disposal of S.No.96 of Bakkaravalli village for purposes of coffee plantation in accordance with the Land Grant Rules taking into consideration the petitioner's application for the grant of the same having regard to the fact that the petitioner is a landless person;

b) to issue a similar writ or direction directing the Tahsildar (2nd respondent), Belur Taluk to dispose of the petitioners darkhast application for the grant of S.No.96 in accordance with the land grant rules;

c) to pass an interim order pending disposal of the Writ, to stay the operation of the impugned order of the Government dated 17-12-1969 aforesaid marked Exhibit 'C'.

ORDER

IT IS ORDERED that pending disposal of this Writ petition; operation of the order dated 17-12-1969 in No. AFD 100 FGL 68 passed by the aforesaid 1st respondent be and the same is hereby stayed.

AND IT IS FURTHER ORDERED that notices of this petition do issue to the respondents abovenamed.

Sd/-III Deputy Registrar.

To
1) State of Mysore by its Chief Secretary to Government, Vidhana Soudha, Bangalore.
2) The Tahsildar, Belur Taluk, Belur.
(Please acknowledge receipt of this order).

Sl. No. 7

9 6

GOVERNMENT OF MYSORE

No. AFD 90 FGL 70.

MYSORE GOVERNMENT SECRETARIAT,
VIDHANA SOUDHA,

Dated, Bangalore, 4.3.70 *196*

FROM

The Secretary to the Government of Mysore,
Agriculture & Forest Department.

To The Chief Conservator of Forests
in Mysore, Bangalore.

Sir,

Sub: Writ Petition No.685/70 Sri M.Manje Gowda Vs - State-dispute regarding disposal of land in S.No.96 of Bhakkaravalli, Belur Taluk, Hassan District.

In enclosing a copy of Interim Order dated 13-2-1970 passed by the High Court of Mysore, in respect of the Writ Petition as mentioned above, I am directed to request you to take immediate action in the matter.

Yours faithfully,

4/3/1970

(N.Shantha Raju)
Section Officer,
Agri.& Forest Department.

hns/3-3/

Ext A

10

Sub:- Exchange of 62-20 acres of land out of F.S.No. 194 & 182 of Malsavara Minor Forest for an equal extent of Lands in S.No.54 of Madgundi village owned by Sri.B.N.Krishnappa.

PROCEEDINGS OF THE GOVERNMENT OF MYSORE/ORDER NO.FD.313 FGL.66 BANGALORE DATED THE 30th AUGUST.1968.

Read: 1.Letter No.33 GFL.103/64-65 dated 12-10-1966 and 17-6-68 from the Chief Conservator of Forests in Mysore, Bangalore.

Preamble:-The Chief Conservator of Forests in his letter dated 12-10-66 cited above has reported that one Sri.B.N. Krishnammappa has reuested for transfer of 62-20-0 acres of land out of F.S.No.194 ad 182 of Malaswara Minor Forest, Belur Taluk, Hassan District in exchange for an equal extent of his land in S.No.54 of Madugundi village for Belur hobli, Mudigere Taluk Chikmagalur district.

The Chief ~~xxxxxxxx~~ Conservator in his letter No. dated 17-6-68 cited above has reported that it is advantageious to Government to transfer the land in exchange as the land to be surrendered by the party forms an enclosure in the Belur state forest ~~ad~~ and lies in ever green belt of vegetation.

~~ORDER~~

Government are pleased to release 62-20-0 acres of land out of F.S.No.94 and 182 of Malleswara Minor Forest of Belur Taluk, Hassan District for being granted to Sri.B.N. Krishnappa in exchange for 62-20-0 acres of land owned by the party in S.No.54 of Maaguni village Belur Hobli, Chikmagalur District. The area so surredered will be taken ever by the Forest Department.

After disforestment the land may be handed over to Revenue Department for being granted to Sri.B.N.Krishnappa after surrender of his land of any equal extent stated above to he Forest Department. The Chief Conservator of Forest is directed to take further action a the matter.

By ~~ORDER~~ AND IN THE NAME OF THE GOVERNOR OF MYSORE.

Sd/- S.Balasubramanyam,
Under Secretary to Government,
Agriculture and Forest Department. /copy/

13/3

For Deputy Commissioner
Hassan District

13/3/70

petitioner is a landless person;

b) to issue a similar writ or direction directing the Tahsildar (2nd respondent), Belur Taluk to dispose of the petitioner's darkhast application for the grant of S.No. 96 in accordance with the land Grant Rules:

c) to pass an interim order pending disposal of the writ, to stay the operation of the impugned order of the Government dated 17-12-1969 aforesaid marked exhibit 'C'

ORDER

IT IS ORDERED that pending disposal of this Writ petition; operation of the order dated 17-12-69 in No. AFD 100 FGL 68 passed by the aforesaid 1st respondent be and the same is hereby stayed.

AND IT IS FURTHER ORDERED that notices of this petition do issue to the respondents abovenamed.

Sd:--
III Deputy Registrar.

To

1. State of Mysore by its Chief Secretary to Government of Mysore, Vidhana Soudha, Bangalore-1.
2. The Tahsildar, Belur Taluk, Belur.

Please acknowledge receipt of this order.

"C O P Y"

Sellu 13/3
For Deputy Commissioner.
Hassan District
13/3/70

12 9/5

IN THE COURT OF MYSORE AT BANGALORE.
DATED THE 13TH DAY OF FEBRUARY 70.

PRESENT

THE HON'BLE MR. JUSTICE K.R.GOPIVALLABHAN IYENGAR.

AND

THE HON'BLE MR.JUSTICE M.SADANANDA SWAMY

WRIT PETITION NO. 685 of 1970

(WITH STAY)

M.Manje Gowda, son of Jule Gowda, aged about 50 years, Vokkaligar, Agriculturist, resident at Sirugura village, Arehalli Hobli, Belur Taluk, Hassan District. PETITIONER.

And:

1. State of Mysore by its Chief Secretary to Government, Vidhana Soudha, Bangalore-1.

2. The Tahsildar, Belur Taluk, Belur.

3. B.N.Krishnappa, son of P. Nanjundappa, aged about 70 years, Contractor and Coffee Planter, resident of Mudagere, Chikmagalur District. RESPONDENTS.

Writ petition filed under article 226/227 of the constitution of India, by Sri S.K.Venkataranga Iyengar, Sri Maloor Subbarao and Sri N.T.Shankaregowda, Advocates for the petitioner praying for the reasons sworn to in the affidavit annexed to the said Petition that a) to quash by the issue of a writ of certiorari the impugned order of Govt. No. AFD 100 FCL 68 Bangalore dated the 17th December, 1969 marked Ext.'C' and by the issue of a writ of mandamus to direct the Govt. to pass orders for disposal of S.No. 96 of Bakkaravalli village for purposes of coffee plantation in accordance with the Land Grant Rules taking into consideration the petitioner's application for the grant of the same having regard to the fact that the

fact that I am a landless person. The records built up by the Tahsildar also support this submission. ~~The tahsildar also support this submission.~~ The Tahsildar is impleaded as the second respondent so that this Honourable court may be pleased to issue a similar writ or direction directing him to dispose of my darkhast application for the grant of S.No.96 in accordance with the land grant rules.

17. This Court may be pleased to pass an interim order pending disposal of the writ, to stay the operation of the impugned order of Government dated 17-12-1969 aforesaid marked exhibit "C".

18. This court may further be pleased to pass all further orders as may be necessary to meet the ends of Justice including the award of costs of this petition.

Identified by me.

Advocate.
No. of corrections
Bangalore
10 Feb.1970

'Copy'

For Deputy Commissioner
Hassan District
13/3/70

That instead of cash compensation the 3rd respondent could have been given Government land observing the statutory rules relating to the grant.

14. It has to be stated that the Government orders as aforesaid in violation of the statute and the statutory rules fall for being quashed by the issue of a writ of certiorari or mandamus or other appropriate writ or direction as the case may be.

In the above context, it will be seen that the 3rd respondent had not even made an application for grant of land in S.No.96 at the time of the Government order No.RD.32 LRO 62 dated 6-6-1965 which ordered the release of S.No.96 of Sakkaravalli state forest to Revenue Department.

15. In the circumstances aforce mentioned, consequent on the Government Order dated 17-12-69, making S.No.96 of Sakkaravalli village available to the third respondent, I have no other remedy available than to approach this honourable Court in the exercise of its writ jurisdiction.

16. It is just and expedient in the circumstances that an the quashing the said impugned order of Government dated 17-12-1969 this Honourable Court may be pleased by the issue of a writ of mandamus to direct the Government to pass orders for disposal of S.No.96 of Sakkaravalli village for purposes of coffee plantation in accordance with the Land Grant Rules taking into consideration my application for the grant of the same having regard to the

Contd:2.

As stated above, I was endorsed by the Government in its forest Department to approach the Revenue Department without noticing that the said Government order dated 17-12-1969 as per EXHIBIT "C" disposing of S.No. 96 of Bakkaravalli in favour of the 3rd respondent left nothing for the revenue authorities for disposal. In this context it will be appreciated that in accordance with law, the Tahsildar had built up the records in the year 1966 for the grant of the land in my favour. Ex.F.

13. The third respondent is not even an agriculturist and he is not entitled to any grant under the land Grant Rules. If any portion of his land which was a revenue land was ought to be taken for forest, the only course open to Government was to purchase the land by recourse to land acquisition proceedings. It is only the reafter that instead of cash compensation the 3rd respondent could have been given Government land observing the Statutory rules relating to the Grant.

No. of Corrections.

Conted. to page.13.

retaining the power to grant lands exceeding 10 hectares of dry and 5 hectares of Wet.

The Rules also make it clear that the records for the grant of the land are to be built up by the Tahsildar.

10. In view of the above provisions of law there was no scope for Government passing orders as an original authority disintegrating the lands and assigning the same as lands to be made available for agriculture without compliance of the sections aforesaid of the Mysore Land Revenue Act, and the Mysore Land Grant Rules.

11. Even more objectionable is the transaction relating to exchange of lands. It is submitted that when certain lands reserved as forest reserved lands are disassigned and made available for cultivation, the same will have to be disposed of by entertaining applications the Tahsildar having to build up the records. The lands will have to be disposed of by the revenue officers according to the powers as stated in Rule 7 of the Land Grant Rules.

12. In pursuance of the Government under releasing C.No. 96 Aforesaid, I alone had preferred darkhast application. As

No.of corrections.

Continued to page.12.

Deputy Commissioner after formal enquiry to pass an order deciding the same.

3. From the foregoing sections it will be evident that it is the Deputy Commissioner that has to decide assignments of lands, disassignament of lands and their disposal subject to a limit which is prescribed under the rules the limmits below that being capable of disposal by the Assistant Commissioner and Tahsildar as prescribed by the Rules and the limits above it being disposed of by the Divisional Commissioner or Government as the case may be according to the extent of dry and wet land to be disposed of.

9. In exercise of the rule- making power vested in the state Government under Section 197 of the Mysore Land Revenue Act the Statutory Rules known as " The Mysore Land Grant Rules, 1969" have been made in supersession of other ~~Provisions~~ previous rules. Rule 7 of those rules refine the powers of different categories of Revenue Officers as regards the grant of lands for purposes of agriculture. The Tahsildar can grant lands not exceeding two hectares dry and hecture wet or garden, the Assistant Commissioner three hectares dry and two hectares wet or garden, the Deputy Commissioner 5 hectares of dry and 3 hectares of wet, the Divisional Commissioner 10 hectares of dry and 5 hectares of wet the Government relating the No. corrections.

Contd. to page.11.

The Deputy Commissioner; and in the disposal of lands under section 69 due regard shall be had to all such special assignments.

Ordinance 69 a which replaced section 69 of the said Act runs as follows:-

" Subject to such r les as may be made in this behalf, the State Government, the Divisional Commissioner, the Deputy Commissioner, the Assistant Commissioner in-charge of a Taluk or Taluks and the Tahsildar may dispose of land or other preporty belonging to State Government for purposes of agriculture Etc., Etc.,

It has to be stated that Section 67 states that all lands wherever situate which are not the property of individuals or aggregate of persons legally capable of holding property and except in so far as any rights of such persons may be established in or over the same and except as may be otherwise provided in any law for the time being in force or declared to be that all rights in or over the same or apportaining the rate, are and are hereby declared to be with all rights in or orver the same or apportioning thereto, the property of the state Government.

Sub-Section 2 of Section 67 states that when any property or right in or over any property is claimed by or on behalf of the State Government is shall be lawful for the

No. of Corrections. Contd. to page.10.

endorsement sent to me by the Deputy Secretary to Government on 17-12-1969.

7.It will be necessary at this stage that I should invite the attention of this Hon'ble court to the Law governing the disposal of lands belonging to the State Government. In the case of lands reserved as a forest reserve among other special assignment section 71 of the Mysore Land Revenue Act specifically provides as follows.

"subject to the general orders of the state Government survey officers whilst survey operations are proceeding under this Act, and at any other time, the Deputy Comar may set apart lands which are the property of the State Government and not in the lawful occupation of any person or aggregate of persons in any village or portions of a village for free pasturage for the village cattle or forest reserves or for any other public purposes, and lands assigned specially for any such purpose shall not be otherwise used without the sanction of the.

No of corrections. Deponent.

Cultivation in S.No.96 of Bakaravali and the records were built up in my favour and final orders were not passed and kept pending in deputy Commissioner's office awaiting the release order from the Forest Department and that the Hon'ble Forest Minister may be pleased to grant the land in S.No.96 to me only for upset price after sending for the darkhast proceedings and perusing the same, the Deputy Secretary to Government Agricultural and Forest Department has sent an endorsement as follows-

> "with reference to your petition dated 12-6-1962 I am directed to request you to approach the Revenue Authorities for allotment of land after the Forest areas are released to them.

6. The G.O.No.FD.100.FGL.68 dated 17-12-69 the grant of 62 acres 20 guntas to third respondent B.N.Krishnappa out of Forest S.Nos.95 and 96 of Bakaravalli and S.Nos.184 and 186 of Malasavara village will exhaust the full extent of land in the four numbers as can be seen from the map of the Forest Area of the two villages marked Exhibit"B" and no land remains in S.No.96 for grant to me by approaching the Revenue Authorities as directed in the endorsement.

No of corrections. Deponent.

areas and to its sanction the release of the following Forest Sy. Nos. to the Revenue Department for being granted to the respective persons.

(i) 50 acres 9 guntas out of F.S. No 194 of Malsavara village, Belur Taluk, Hassan District for being granted to Sri. M.P. Raghunath for coffee cultivation;

(ii) 62 acres 20 guntas out of F.S.No. 95 and 96 of Bakkaravalli and S.Nos. 184 and 186 of Malasavara villages, Belur Taluk, Hassan District by suitably demarkating the area for being granted to Shri. B.K.Krishnappa in exchange of an equal extent of land owned by him in S.No. 54 of Madugundi village, ~~Belur Taluk~~, Belur Holli, Mudigere Taluk, Chikkamagalur District.

The Chief Conservator of Forests is directed to take further action in the matter.

On the same day i.e. 17-12-1969 in answer to my petition that I am the earliest applicant for grant of 50 acres for coffee cultivation.

No. of corrections.

Contd. to page. 7

coffee cultivation in forest Survey Nos. 182 and 194 of Malasavara Minor Forest in his favour at Government level. As Sri. H.P.Nagesh had pruchasd the valuable timber on S.Nos. 182 and 194 aforesaid and as Sri. M.P.Raghunath was a military applicant his application for grant for cultivation of S.Nos. 182 and 194 aforesaid found favour with the higher officers of the Forest Department with the result that there were conflicting orders of Government.

5. The first respondent by its order No. AFD. 313 FGL 66, Bangalore, dated 30th August 1968 were pleased to release 62.20 acres of land in Forest S.Nos. 182 and 194 of Malsavara Minor Forest of Belur Taluk, Hassan District, for being granted to Sri. B.N. Krishnappa(Third respondent herein) in exhange for 62-20 acres of land owned by the party in S.No. 54 of Modugundi village, Belur Hobli, Mudigere Taluk Chikkamagalur District. The copy of the order is enclosed and marked as EXHIBIT "A" Later the first respondent was on further enquiry into the matter at the instance of the Chief Conservator of Forests in Mysore on the subject and on the basis of his letter of recommendation in No. B3.GEL. 103/64-65 dated 16-7-1969 on the subject mentioned above and in supersession of the G.O.No.AFD 313 FGL 66, dated 21-8-1966 pleased to review the previous order and accord sanction for the release of the folloing No. of corrections.

Conted. to page. 6.

third respondent in S.No.54 in Mdudugundi village in exchange for grant of an equal extent of land in forest S.No.192 and 194 of Mallesvara Minor Forest in Belur Taluk,Hassan District. The third respondents land in S.No.54 has been valued by the Forest Officers of the area at an exorbitant value of R.1,000/- per acre for 56 acres and R.500/ per acre for 6 acres 20 guntas in all a total valuation of R.59,250/- for lands purchased by him for R.12,000/- The removal of forest by the third respondent which made the land valuable has not been noticed in the report vide, ref.No.Cr.1.2.62.63 dated 12-6-1963 of the District Forest Officer,Chikmagalur.

4.While at the instance of third respondent by the active cooperation of subordinate forest officers,records were being built up for exchange of Forest S.Nos.192 and 194 of Mallesvara minor forest in lieu of third respondent's survey No.54 of Madugundi village,Belur hobli,Mudigere taluk one captain Mr. M.P.Raghunath a Military applicant was working up with the assistance of his brother Shri.M.P.Nagesh a contractor of forest department for grant of the land for coffee.

No of corrections. Deponent.

Taluk to the Deputy Commissioner, Hassan for sanction. as the Forest Department had not yet handed over the possession of the land which is a minor forest in pursuance of the aforesaid G.O. No.RD.32.LAD.63 dated 6-6-1965 the record was kept pending in the office of the Deputy Commissioner, Hassan vide record No.LND.01.11136/65-66) awaiting the surrender of the land from the Forest Department to the Revenue.

3.I understand that the third respondent who had purchased survey No.54 an extent of 62 acres 20 guntas of Madugundi village, Belur hobli, Mudigere Taluk on 21-12-1955 with malki for R.12,000/- and disposed of the malki during the year 1962-63) later managed to get into friendly relationship with subordinate local Forest Officers and was able to persuade them to recommend to the High officers of the Department that land in S.No.54 of the third respondent was an evergreen forest in the neighbourhood of state Forest and it was eminently fitted for afforestation and took an application from third respondent for surrender of land of third respondent.

No of corrections

Deponent.

1.I am the petitioner in this petition. I am fully conversant with the facts of the case deposed hereunder.

2.I am an insufficient holder of land as shown in the Ahaval Takhta. I have been trying to get 50 acres of land for coffee cultivation in S.No.96 of Bakkaravalli minor Forest Arehalli hobli,Belur Taluk,Hassan District from the year 1966. I made an application for Darkhast of the land in S.No.96 of Bakkarahalli on 30-3-1966. (The said forest Survey number was ordered to be released from the Forest Department to the Revenue Department to make it available for coffee cultivation in G.O.No.RD.32.LAD.62 dated 6-6-1965) Ex.LD.the connected records were built up on my darkhast by the Revenue Department after taking technical opinion of the Coffee Board. The malki of the proposed land, namely S.No.96 was also valued by the Forest Department at R.30/- per acre. The proceedings relating to the grant of 50 acres of land to me in S.No.96 of Bakkarahalli minor forest on my darkhast application were submitted by the Tahsildar of Belur Taluk

contd...

IN THE HIGH COURT OF MYSORE AT BANGALORE.

WRIT PETITION NO.675/1970-71.

Between -

M.Manjegowda, S/o of Jule gowda, aged about 50 years Vokkaligar Agriculturist, resident of Siragere village Arehalli hobli, Belur Taluk, Hassan District. Petitioner.

And.

1. The State of Mysore by its Chief Secretary to Government, Vidhana Soudha, Bangalore-1.

2. The Tahsildar, Belur Taluk, Belur.

and another. Respondents.

A F F I D A V I T.

I, M.Manjegowda, son of Jule gowda, aged about 50 years vokkaligar by caste Agriculturist resident of Siragere village Arehalli hobli, Belur Taluk, Hassan Dist. the petitioner herein do hereby solemnly affirm and state as follows -

No of corrections Deponent.

S.N. 2 EA)P1

15

27

IN THE HIGH COURT OF MYSORE AT BANGALORE

MEMORANDUM OF WRIT PETITION

UNDER ARTICLE 226 and 227 OF THE CONSTITUTION OF INDIA

WRIT PETITION No.819 of 1969

Between:

B.N.Krishnappa
S/o S.Nanjundappa,
Resident of Mudigere
Chickmagalur District. Petitioner

And

The State of Mysore by its
Chief Secretary Vidhana Soudha,
Bangalore.

Chief Conservator of Forests
In Mysore, Bangalore
New Public Officer Bangalore 2.

and 3 others.

Respondents

I. The addresses of the Petitioner for purposes of notices and processes of this Court is thatof his Advocate M/S. A.C.Nanjap and B.K.Bopaiah Advocate, 515 Avenue Road., Bangalore -2.

II. The addresses of the respondents for the same purpose is as given in the cause title.

III. For the reasons sworn to in the accompanying affidavit the Petitioner prays that this Hon'ble Court may be pleased.

i) to issue a writ of mandamus directing respondent No.1 to implement the Government Order No.AFF 313 FCL 66 dated 30-8-1968 under Ex.A since in accordance with theorder the petitioner has surrendered his lands.

ii) to issue a stay order stopping all further proceedings on the file which is with the Ist respondent and bearing No.AFD 100 CFL 68 relating to the proposal to grant land to the 4th respondent.

iii) to issue an injunction restraining N.P Nagesh respondent No.5 and respondents 2 and 3 from in any way interfering with the properties earmarked to the Petitioner as per the sketch prepared in 1966 and

iv) to issue such other appropriate writorder or direction as this Hon'ble Court may deem fit in the circumstances of thecase, including an order as to costs of this writ petition.

Advocate for Petitioner

AFFIDAVIT

I, B.N Krishnappa

I, E.M.Krishnappa son of E.Ranjundappa residing at Mudigere Chickmagalur District, today at Bangalore do hereby solemnly affirm and state as follows:

1. I am the petitioner in the above writ petition and I am fully aware of the facts of the case.

2. I owned 62 acres 20 guntas of Coffee lands in S.No.54 of Mudugundi village, Balur Hobli, Mudigere Taluk, Chickmagalur District. This area formed an enclave in the Balur State Forest. Since this area came in the evergreen forest area I had spend a heavy amount of Rs.18,000/- for making a road through the State Forest to my Estate. On account of heavy rain fall I had to incur a recurring expenditure for keeping the road in good repair. As I was getting old and as the climate also did not agree with my health, thought of to an area which had less rain fall and with that intention I selected an area in S.No. 182 and 194 of Malesvara in Belur Taluk, Hassan District and sought for an exchange of lands from the Government. After elaborate correspondence commencing from my application on 2 .2.1964, final recommendation were made by the Chief Conservator of Forest on 12-10-66. After certifying all the details as to the nature of land, extent etc., the Government sought for clear and correct map as well as sketch pertaining to my lands as well as Forest land in S.No.182 and 194 of Malaswar Minor Forest. Thereafter clear sketches were also sent to the Government with the detailed reports of the Forest Officials with the valuation. The valuation that was put up for my lands work out at Rs.1,000/- per acre for 6 ~~xxxxxx~~ acres and at Rs.500/- per acre for 6 acres 20 guntas-whereas the lands in S.No. 182 and 194 of Malaswar Minor Forest was valued at Rs.200/- per acre. After the valuation was done the papers were again sent to the Government and the Ist respondent in his order No.FF 313 FGL 66 dated 30-8-68 passed an order to release an acreage of 62.20 acre out of S.No.182 and 194 of Malesvara Minor Forest of Belur Taluk, for being granted to me in exchange for 62.20 acres of my land. The original order of the I respondent is produced herewith marked Ex.A.

3. Thereafter the Chief Conservator of Forest issued me an endorsement asking me to approach the Conservator of Forests, Shimoga and Coorg Division for further action in the matter. The said endorsement is produced herewith marked as Ex.B. The Tahsildar of Mudigere took action as per the Government Order and issued me an endorsement calling upon me to credit the land revenue for my land for the years 1968-69. The endorsement of the Tahsildar Mudigere is herewith produced marked as Ex.C. I accordingly credited a sum of Rs.123-93 vide challan No.89 dated 25-9-1968 and as per the directions of the Tahsildar I also executed a relinquishment deed as per the Rules. A copy of which is produced herewith marked as Ex.D. and handed over the original along with the challans. The Tahsildar gave me an acknowledgement showing received my relinquishment application. That acknowledgement is produced herewith and marked as Ex.E.

4. Later about the -10-1968 I went to Hassan to enquire about when I would be given possession of the forest land.

Sl. No. 2. P. 3.

29

I learnt that the clandectine attempts were being made to see that the lands which were to be handed over to me were to begiven over to one Capt. M.P.Raghunath andon further enquirie at the Forest Office did notdisclose the details as I was told that all the papers were with the Government. Immediately I came over to Bangalore. After heroulean efforts I was able to get the information that the Government Order had been stayed without any notice to me and that proposals were being made to grant the very same Forest Land in S.No.182 and 194 to Capt.M.P.Raghunath. I also learnt that his brother M.P.Nagesh had purchased the timber on the land. The proposal as well as the sale are clearly illegal Capt. Raghunath as well as M.P.Nagesh have manoeured and are trying to deprive me of the land by resorting to pressure tactics. I submit that the I respondent has succumed to the pressures brought by M.P.Raghunath and Sri M.P.Nagesh as the proposals were being processed even before theland was handed over to the Revenue Department. Immediately on 4.10.1968 I gave a petition to the I Respondent inviting the attention of the Minister for Forest in Mysore that the stay order granted was clearly illegal and the proposals to grant the same land to M.P. Raghunath would amount to review. A copy of my petition is marked asEx.F. I also brought to his notice that the timber had not been felled though the stipulated period for removal of timber was over that now I learnt that Sri M.P.Raghunath and M.P. Nagesh are attempting to retain thetimber for the purpose of Coffee cultivation. I submit that all my attempts at getting the stay order vacated has not been successful, and I have been driven fromciller to post to seek my redressal. The Forest Department have been faced toprepare a sketch showing the identical area that was earlier earmarked for me. However, I have learnt that the attempts are being made to push through recommendations for granting of the same area that was earmarked to me in S.No.182 and 194 and a direction has been given on 23-1-1969 to theeffect that the 50 acres of land in S.No.194 of Malaswar Village, Belur taluk Hassan District to be release in favour of the Revenue Department for being granted to Sri M.P.Raghunath my attempts at getting the copies of the Government Orders has not been successful except coming to know of the number of the file. Further the District Forest Officer, Hassan has sent me to endorsement dated 7-10-1968 informing me that stay has been granted. The same is produced marked as Ex.G. Therefore, I am compelled to approach this Hon'ble Court in order to seek redress from this Hon'ble Court.

5. I have no other appropriate and efficacious remedy than to approach this Hon'ble Court in its writ jurisidection.

I therefore pray that this Hon'ble Court may be pleased to issue a writ of mandamus directing the Government to implement the Government Order as per Ex.A since in accordance with the order I have surrendered my lands.

I further pray that this Hon'ble Court may be pleased to grant me stay of further proceedings of the file APd 100 GFL 68 whereby the Government has released the forest land in Survey No.194 of Maleswar Minor Forest Belur Taluk Hassan District to the Revenue Department for making a grant of 50 acres of land to Sri M.P.Raghunath in Survey No.194 pending decision of this W. P.

I further pray t t this Hon'ble Court may pleased t restrain M.P.Nagesh R spondent 5 and Respondents 2 and 3 from any way interferring with the properties earmarked as sketch prepared in 1966, for exchange to m in S.No.182 194 in Maleswar village, pending disposal of this W.P. since the imber is not yet removed. and the period of such removal has expired. The necessity for urgent Orders have arisen as the papers relating to Capt.Raghunath are being processed at high speed with telegraph communication to the District Officials, direct without the process ofpapers filling through proper channels.

A2F

Deponent

Bangalore
5- -1969

"COPY"

Sl. No. 3

31

No.LND(2) PR.497 C. /69-70. Office of the Deputy Commissioner,
Encl: Eleven only Hassan District,
Hassan, dated 13th March, 1970.

To

The Secretary to Government
Law Department,
Vidhana Soudha,
BANGALORE-1.

10968

Sir,

R. & L. SECTION
A. & V. D.
No.
Date 16 MAR 1970
Section 1907/70/70.

Sub:- Writ petition No. 685/1970 on the file of the High Court of Mysore Bangalore (Sri M.Manjegowda VS State of Mysore and others).

Ref:- Notice No. 1566/1 dated 18-2-70 received from the IIIrd Deputy Registrar, High Court of Mysore, Bangalore.

Sri M.Manjegowda S/o Julegowda resident of Siragura village, Belur Taluk has filed a writ petition cited in the High Court of Mysore, Bangalore against the orders of Govt. in No. AFD 100 FCL 68 dated 17th December 1969 sanctioning release and surrender of land ie., an extent of 50 acres and 62 acres & 20 guntas in Sy. No. 184 and 186 & Mallasavara village and 9 guntas in S.No. 194 of Mallesavara village to the Revenue Department for being granted to Sriyuths: M.P. Raghunatha a Military personal and Sri B.N. Krishnappa S/o Nanjundappa Coffee Planter Mudagire Taluk Chickmagalur Dist. and on this petition, the High Court have stayed the operation of the Government order cited in their order dated 13th February 1970. In this, the State Government by its Chief Secretary for Government of Mysore, Bangalore and the Tahsildar Belur Taluk have been made respondent 1 and 2 respectively and the Tahsildar Belur Taluk respondent 2 has been issued a notice by the IIIrd Deputy Registrar, to appear before the High Court on 16-3-1970. A copy of the writ petition with its enclosures and one copy of the stay order are enclosed for favour of kind perusal. As the respondent 1 and 2 have to be defended in the court on behalf of the State Government, the Advocate General High Court

Contd: 2.

of the Special Government Pleader concerned may kindly be authorised to appear the High Court on 16-3-70 and defered the case. Pending authorisation of the Government the Advocate General High Court of Mysore Bangalore has been requested to appear before the Court on 16-3-70 on behalf of the respondent 1 and 2. Order of Government authorising the Government pleader may kindly be communicated urgently.

Draft approved by the Deputy Commissioner.

Yours faithfully,
Sd/-
for Deputy Commissioner,
Hassan District.

Hvk/-

Copy with a copy of the writ petition and stay order is forwarded to:-

1. The Secretary to Government, Revenue Department P.B.No. 349 Vidhana Soudha, Bangalore.
2. The Secretary to Government Agricultural and Forest Department, Vidhana Soudha, Bangalore.
3. The Divisional Commissioner, Mysore Division, Mysore-5 and
4. The Advocate General High Court of Mysore, Bangalore-1. for information and necessary action. He is requested to appear before the Court on 16-3-70 on behalf of the respondent 1 and 2 and defered the case pending authorisation by Government.
5. The Assistant Commissioner, Saklespur Sub Division, Saklespur.
6. The Tahsildar, Belur Taluk. It is pointed out with regret that although he has received the notice on 23-2-70 from the IIIrd Deputy Registrar High Court of Mysore, his report dated 2-3-70 has reached here on 10-3-70 and that immediate action was not taken to refer the matter to this office. The explanation of the conserned should be obtained and submitted for suitable action for the carelessness on the part of the conserned in such important matters.

for Deputy Commissioner,
Hassan District.

13/3/70

as the second respondent so that this Honourable Court may be pleased to issue a similar writ or direction directing him to dispose of my darkhast application for the grant of S.NO.96 in accordance with the land Grant Rules.

17. This court may be pleased to pass an interim order pending disposal of the writ, to stay the operation of the impugned order of Government dated 17-12-1969 aforesaid marked Exhibit-C.

18. This court may further be pleased to pass all further orders as may be necessary to meet the ends of justice including the award of costs of this petition.

Deponent

-copy-

Sl. No. 5

34 38.

Office of the Deputy Commissioner.
Hassan District.

18225 No.(LND(2)PR.497.C.10234/69-70 Hassan, Dated:-30-4-1970.

Encls-one and one records.

To

The Secretary to Government,
Revenue Department, Vidhana Soudha,
Bangalore-1.

Sir,

Sub:-Writ petition No.685 of 1970 on the file of the High Court of Mysore by Shri.M.Manjegowda, Belur Taluk vs the State of Mysore and others.

Ref:-Government order No.LAW.685.LWP.1970 dated 10th March 1970.

2.This office letter of even No.dated 13-3-1970

=;000;=

I enclose herewith the Darkhast records relating to the grant of Land in S.No.96 of Bakkavavalli village in favour of Shri.M.Manjegowda with parawise remarks to the points raised in the affidavit filed in support of the writ petition cited, for favour of needful.

Yours faithfully,
sd/-
For Deputy Commissioner,
Hassan District.

Draft approved by D.C.,
vks/30-4-1970.

Copy to the Divisional Commissioner, Mysore-5 and.
Copy to the Secretary to Government, Agriculture and Forest Department in Mysore, Bangalore in continuation of this office letter of even No.dated 13-3-1970.

For Deputy Commissioner,
Hassan District.
30.4.70

Shri A.G.G
pl. see its bin related to forest Sec.
4/5/70

3152/FB/70.
6/5/70.

A & F (Ag.A) No: 1999 Date. 2/5/70
Previous D.No. 1907/70

May be transferred to Forest 'B' Section.
5/5/70
5/5/70
US. (Forest).

90FG.L70
Sh. H.K.R.
1-5-70

Parawise remarks to the points raised in W.P.No.685/1970 to Shri.M.Manjegowda,S/o.Julegowda,Vs State of Mysore and Shri.B.N.Krishnappa,S/o.P.Nanjundappa,Coffee Planter Mudagere Taluk.

=;oOo;=

Paras 1 and 2 -

Shri.M.Manjegowda,S/o.Julegowda,made a darkhast application to the Tahsildar,Belur Taluk on 28-3-1966 for grant of 56-07 acres in Sy.No.96 for Coffee cultivation and an extent of 1-08 acres in Sy.No.96 of Bhakkaravalli village,for wet cultivation and on his application darkhast records were builtup by the Revenue Inspector Arehalli hobli on 30-3-1966. These records do not disclose whether the petitioner is an insufficient holder when this records were referred to the Asst. Commissioner,Saklespur Sub-Division for order on the request of the petitioner,it was directed by the Assistant Commissioner that the question of granting land to the petitioner may lie over for the present as final orders were not received from the Divisional Commissioner, Mysore Division.

Para.3:- Reply not furnished as the relevant records are available with the Forest Department.

Para.4:- No records have been built up in favour of Shri.B.N.Krishnappa for exchange of his land through Revenue Department,Darkhast records were built up in favour of Shri.M.P.Raghunath for grant of 50-00 acres of land in Sy.No.50 of Malsavara village for coffee cultivation in response to direction of Government communicated in letter No.RD.53.LGH. 66 dated 2-9-1966 and according to the letter No.S7.DAR.124-178/67-68 dated 9th July 1968 the malki existing in the area of 50-00 acres plot was sold in auction sale held on 4-6-1968 to Shri.M.P.Nagesh

Para.5:- Government in their order No.FD.313.FGL.66 dated 30th August 1968 released an extent of 62-20 acres of land out of F.S.No. 94 and 182 of Malsavara village Minor Forest of Belur Taluk for being granted to Shri.B.N.Krishnappa in exchange for 62-30 ares of land by the party in Sy.No.54 of Mudagere village,Mudigere Taluk,Chikmagalur

contd..2

In response to his petition dated 12-6-69, Government directed him to approach the Revenue Authorities for allotment of Land after the Forest areas are released to them.

Para.6:- No comment.

Para.7:- Provision of 71 of the Land Revenue Act 1964 are not attracted to this issue as the Land was not handed to the Revenue Department for disposal under darkhast rules. The Revenue Department is not bound to make action for the disposal of land which vest in Forest Department. This contention is therefore not tenable.

Para.8:- This contention of the petitioner is also not tenable as the Deputy Commissioner cannot suomoto take action for the assignment of the Land under darkhast Rules unless the lands of other Department are released in favour of the Revenue Department and the possession is actually handed over to the Tahsildar of the concerned Taluk.

Para.9:- It is true that all darkhast for disposal of Land belonging to the Rev.Department are to be processed through the Tahsildars of the Taluk.

Para.10:-Government being the appropriate authority have only ordered the release of 62-20 acres of Land, actual assignment has not taken place, hence this contention does not subsists.

Para.11:- Rule 7 of the Mysore Land Grant Rules 1969 is attracted only when the land belonging to the Revenue Department is proposed for disposal.

Para.12:- Apart from the application of Shri.M.Manjegowda many persons have made applications to Government and the Deputy Commissioner for grant of land in Sy.No.96 of the Village for coffee cultivation.

Para.13:-Assignment of Forest land is in exchange of the hiduvali lands of the 3rd respondent Shri.B.N.Krishnappa, which the Forest Department have taken over for Departmental activities.

Paras.14 to 16.-

Shri.B.N.Krishnappa also made an application to Govt previously for assignment of forest lands in Belur Taluk in lieu of his hiduvali lands in Mudigere Taluk. As Government in Forest Department have taken over the lands of the 3rd Department equal extent is now ordered to be released in Bakkaravalli village in Government order dated 17-12-1969 for being assigned to Shri.B.N.Krishnappa, Although the land measuring 62-20 acres has been released by Government, in Government order dated 17-12-1969, this area is not yet handed over to Revenue Department to enable the officers of Revenue Department for exercising their appropriate powers stipulated under the provisions of the Mysore Land Grant Rules 1969. Since the released Forest Land is not actually handed over the Revenue Department, the Revenue Officers are not empowered to take action to its disposal under the Mysore Land Grant Rules 1969. The writ petition is therefore liable to be dismissed.

For Deputy Commissioner,
Hassan District.
30/4/70

Draft approved by D.C.,
vks/-30-4-70

Sl. No. 4

38

34

PROCEEDINGS OF THE GOVERNMENT OF MYSORE

SUB:- Regarding authorisation-Government Advocate, Bangalore to appear-Writ Petition No.685 of 1970 on the file of the High Court of Mysore-by Sri N.Manje Gowda, Belur Taluk, Hassan District ve-the State of Mysore and others.

R.&L.SECTION
A.&P.D.
No.
Date 14 APR 1970
Section

ORDER NO.LAW 685 LRP 70
BANGALORE DATED THE 10 MARCH 1970

15361 With reference to the Registrar of High Court of Mysore, Bangalore letter No.1513/P dated 18-2-1970 on the subject mentioned above the Governor has been pleased to authorise the Government Advocate, Bangalore to appear before the High Court of Mysore on behalf of the Respondents Nos.1 and 2 viz., the State of Mysore by its Chief Secretary to Government, Bangalore 2)The Tahsildar, Belur Taluk, Belur in the above writ and stay petition and oppose the same.

2559/FB/70.
15/4/70

The Deputy Commissioner, Hassan District, Hassan is requested to furnish to the Revenue Department with all particulars and records required in this behalf for preparing draft Counter Affidavit.

F-B

14.4

(B.M.Chandrashekhariah)
Solicitor and Ex-Officio
Deputy Secretary to Government,
Department of Law and Parly.Affairs.

To

1.The Government Advocate, Bangalore with duplicate Notice and copies of petition and affidavit,

2.The Deputy Commissioner, Hassan District, Hassan,

3.Copy to the Revenue Department with a copy of the petition and affidavit and with a request to comply with the requirements of Circular Memorandum No.LAW 18 LRP 57 dated the 23rd March 1959,

4.The Tahsildar, Belur Taluk, Belur,

5.The Agriculture and Forest Department, Vidhana Soudha, Bangalore,

vr/31/3 6.The Law Department (Section-I).

IN THE HIGH COURT OF MYSORE AT BANGALORE

Memorandum of Writ Petition

(Under Articles 226 and 227 of the Constitution of India).

W.P.NO.685/1970

Between

M.Manje Gowda, son of Jule Gowda, aged about 50 years, Vokkaligar, Agriculturist, resident at Sirugura village, Arehalli Hobli, Belur Taluk, Hassan District. Petitioner

A n d

1.State of Mysore by its Chief Secretary to Government, Vidhana Soudha, Bangalore-1.

2.The Tahsildar, Belur Taluk, Belur.

3.B.N.Krishnappa, son of P.Nanjundappa, aged about 70 years, Contractor and Coffee Planter, resident of Mudagere, Chikmagalur District.

Respondents.

I. The address of the petitioner for service of all court notices etc., is as given above and also care of Sriyuths S.K.Venkatarenga Iyengar and Mulur Subba Rao, Advocate, 'Kanakamandiram' Gandhinagar, Bangalore-9.

II. The addresses of the respondents are as stated in the cause & title above.

III. That for the reasons stated in the accompanying affidavit, the petitioner most respectfully and humbly prays that this Honourable Court may kindly be pleased.

(a) to quash the impugned Order of Government No. AFD.100 FCL 68 Bangalore dated the 17th December 1969 marked Exhibit-C by the issue of a writ of mandamus to direct the Government to pass orders for disposal of S.NO.96 of Bakkaravalli village for purposes of coffee plantation in accordance with the Land Grant Rules taking into consideration the petitioner's application

...2

for the grant of the same having regard to the fact that the petitioner is a landless as person.

b) to issue a similar writ or direction directing the Tahsildar (2nd respondent), Belur Taluk to dispose of the petitioner's darkhast application for the grant of S.NO.96 in accordance with the Land Grant Rules.

c) to pass an interim order pending disposal of the writ, to stay the operation of the impugned order of Government dated 17-12-1969 aforesaid marked Exhibit-C.

d) to pass all further orders as may be necessary to meet the ends of justice including the award of costs of this petition.

Bangalore
11-12-1970

Advocate for Petitioner

A F F I D A V I T

I, M.Manje Gowda, son of Jale Gowda, aged about 50 years, Vokkaliger by caste, Agriculturist, resident of Siragere village, Arehalli Hobli, Belur Taluk, Hassan District, the petitioner herein do hereby solemnly affirm and state as follows:-

1.I am the petitioner in this petition. I am fully conversant with the facts of the case deposed hereunder.

2. I am an insufficient holder of land as shown in the Ahaval Takhta. I have been trying to get 50 acres of forest land for Coffee cultivation in S.NO.96 of Bakkaravalli minor Forest, Arehalli Hobli, Belur Taluk, Hassan District from the year 1966. I made an application for Darkhast of the land in S.NO.96 of Bakkarahalli on 30-3-1966. (The said Forest Survey Number was ordered to be released from the Forest Department to the Revenue Department to make it available for Coffee Cultivation in G.O.NO.RD.32 LAD 62 dated 6-6-1965) EX.D. The connected records were built up on my darkhast by the Revenue Department after taking technical opinion of the Coffee Board. The malki of the proposed land, namely S.NO.96 was also valued by the Forest Department at Rs.30/-

...3

per acre. The proceedings relating to the grant of 50 acres of land to me in S.NO.96 of Nakkarahalli minor forest on my darkhast application were submitted by the Tahsildar of Belur Taluk to the Deputy Commissioner, Hassan for sanction. As the Forest Department had not yet handed over the possession of the land which is minor forest in pursuance of the aforesaid G.O.NO.RD.32 LAD 62 dated 6-6-1965 the record was kept pending in the office of the Deputy Commissioner, Hassan (Vide Record NO.LND.GI. 11126/65-66), awaiting the surrender of the land from the Forest Department to the Revenue.

3. I understand that the third Respondent who had purchased Survey No.54 an extent of 62 acres 20 Guntas of Madugundi village, Balur Hobli, Mudigere Taluk on 21-12-1955 with Malki for Rs.12,000/- and disposed of the malki during the year 1962-63 later managed to get into friendly relationship with subordinate local Forest Officers and was able to persuade them to recommend to the Higher Officers of the Department that land in S.NO.54 of the third respondent was an evergreen forest in the neighbourhood of State Forest and it was eminently fitted for afforestation and took an application from third respondent for surrender of land of third respondent in S.NO.54 in Madugundi village in exchange for grant of an equal extent of land in Forest S.NO.182 and 194 of Malleswara Minor Forest in Belur Taluk, Hassan District. The third respondent's land in S.NO.54 has been valued by the Forest Officers of the area at an exorbitant value of Rs.1,000/- per acre for 56 acres and Rs.500/- per acre for 6 acres 20 guntas in all a total valuation of Rs.59,250/- for lands purchased by him for Rs.12,000/-. The removal of forest by the third respondent which made the land valuable has not been noticed in the report, vide, ref.No.Cr.1-2-62-63, dated 12-6-1963 of the District Forest Officer, Chickmagalur.

4. While at the instance of third respondent by the active co-operation of subordinate forest officers, records were being built up for exchange of Forest S.Nos.182 and 194 of Malleswara minor Forest in lieu of third respondent's Survey Number 54 of Madugundi village, Balur Hobli, Mudigere

Taluk one Captain Sri M.P.Raghunath a Military applicant was working up with the assistance of his brother Sri M.P.Nagesh, a contractor of Forest Department for grant of the land for coffee cultivation in Forest Survey Nos. 182 and 194 of Malsavara Minor Forest in his favour at Government level. As Sri M.P.Nagesh has purchased the valuable timber on S.Nos.182 and 194 aforesaid and as Sri M.P.Raghunath was a military applicant his application for grant for cultivation of S.Nos.182 and 194 aforesaid found favour with the higher officers of the Forest Department with the result that there were conflicting orders of Government.

5.The first respondent by its order No.APD.313 FCL 66 Bangalore dated 30th August 1968 were pleased to release 62-20 acres of land in forest S.Nos.182 and 194 of Malasavara minor forest of Belur Taluk, Hassan District, for being granted to Sri B.N.Krishnappa (third respondent herein) in exchange for 62-20 acres of land owned by the party in S.NO.54 of Madugundi village, Balur Hobli, Mudigere Taluk, Chikmagalur District. The copy of the order is enclosed and marked as Exhibit-4. Later the first respondent was on further enquiry into the matter at the instance of the Chief Conservator of Forests in Mysore, on the subject and on the basis of his letter of recommendation in No.B3.GFL.103/64-65 dated 16-7-1969 on the subject mentioned above and in supersession of the G.O.No.APD.313 FCL 66 dated 31-8-1968 pleased to review the previous order and accord sanction for the release of the following area and to its sanction the release of the following forests S.Nos.to the Revenue Department for being granted to the respective persons.

i) 50 acres/9 guntas out of F.S.NO.194 of Malasavara village, Belur Taluk, Hassan District for being granted to Sri M.P.Raghunath for Coffee cultivation.

ii) 62 acres 20 guntas out of F.S.NO.95 and 96 in Bakkaravalli and S.Nos.134 and 136 of Malsavara villages, Belur Taluk, Hassan District by suitably demarkarcating the area for being granted to Shri B.N.Krishnappa in exchange of an equal extent of land owned by him in S.NO.54 of Madugundi village, Balur Hobli, Mudigere Taluk, Chickmagalur District.

The Chief Conservator of Forests is directed to take further action in the matter. On the same day i.e., 17-12-1969 in answer to my petition that I am the earliest applicant for grant of 50 acres for coffee cultivation in S.NO.96 of Bakaravalli and the records were built up in my favour and final orders were not passed and kept pending in Deputy Commissioner's office awaiting the release order from the Forest Department and that the Hon'ble Forest Minister may be pleased to grant the land in S.NO.96 to me only for upset price after sending for the darkhast proceedings and pursuing the same, the Deputy Secretary to Government Agricultural and Forest Department has sent an endorsement as follows:-

> "With reference to your petition dated 12-6-1969 I am directed to request you to approach the Revenue Authorities for allotment of land after the Forest areas are released to them.

6. By the G.O.No.AFD.100 FGL 68 dated 17-12-1969 the grant of 62 acres 20 guntas to third respondent B.N.Krishnappa out of Forest S.Nos.95 and 96 of Bakaravalli and S.Nos.184 and 186 of Malsavara village will exhaust the full extent from the Map of the Forest Area of the two villages marked as Exhibit-B. and no land remains in S.No.96 for grant to me by approaching the Revenue Authorities as directed in the endorsement sent to me by the Deputy Secretary to Government, on 17-12-1960.

7. It will be necessary at this stage that I should invite the attention of this Honourable Court to the law government the disposal of lands belonging to the State Government. In the case of lands reserved as a forest reserved among other special assignments Section 71 of the Mysore Land Revenue Act specifically provides as follows:-

> "Subject to the general orders of the State Government Survey Officers, whilst survey operations are proceeding under this Act, and at any other time, the Deputy Commissioner, may set apart lands which are the property of the State Government and not in the lawful occupation of any person or aggregate of persons in any village or portions of a village, for free pasturage for the village cattle, or forest reserves or for any other

public purpose, andlands assigned specially for any such purpose shall not be otherwise used without the sanction of the Deputy Commissioner; and in the disposal of lands under Section 69 due regard shall be had to all such special assignments.

Ordinance 69 which replaced section 69 of the said Act runs as follows:-

"Subject to such rules as may be made in this behalf, the State Government, the Divisional Commissioner, the Deputy Commissioner, the Assistant Commissioner in charge of a taluk or taluks and the Tahsildar may dispose of land or other property belonging to State Government for purposes of agriculture. etc., etc.,

It has to be stated that Section 67 states that all lands wherever situate which are the property of individuals or aggregate of persons of individuals or aggregate of persons legally capable of holding property and except in so far as any rights of such persons may be established in or over the same and except as may be otherwise provided in any law for the time being in force or declared to be that all rights in or over the same or appertaining thereto, are and are hereby declared to be with all rights in or over the same or appertaining thereto, the property of the State Government.

Sub Section 2 of the Section 67 states that when any property or right in or over any property is claimed by or on behalf of the State Government it shall be lawful for the Deputy Commissioner after formal enquiry to pass an order deciding the same.

8. From the foregoing sections it will be evident that it is the Deputy Commissioner that has to decide assignments of lands, disassignment of lands and their disposal subject to a limit which is prescribed under the rules the limits below that being capable of disposal by the Assistant Commissioner and Tahsildar as prescribed by the Rules and the limits above it being disposed of by the Divisional Commissioner or Government as the case may be

according to the extent of dry and wet land to be disposed of.

9. In exercise of the rule making power vested in the State Government under Section 197 of the Mysore Land Revenue Act the Statutory rules known as "The Mysore Land Grant Rules, 1969' have been made in supersession of other previous rules. Rule 7 of these rules define the powers of different categories of revenue officers as regards the grant of lands for purposes of agriculture.

The Tahsildar can grant lands not exceeding two hectares dry and one hectare wet or garden, the Assistant Commissioner three hectares dry and two hectares wet or garden, the Deputy Commissioner 5 hectares of dry and 3 hectares of wet, the Divisional Commissioner 10 hectares of dry and 5 hectres of wet the Government retaining the power to grant lands exceeding 10 hectares of dry and 5 hectares of wet.

The Rules also make it clear that the records for the grant of the land to be built up by the Tahsildar.

10. In view of the above provisions of law there was no scope for Government passing orders as an original authority disassigning the lands and assigning the same as lands to be made available for agriculture without compliance of the sections aforesaid of the Mysore Land Revenue Act, and the Mysore Land Grant Rules.

11. Even more objectionable is the transaction relating to exchange of lands. It is submitted that when lands reserved as forest reserved lands are disassigned and made available for cultivation, the same willhave to be disposed of by ~~by~~ entertaining applications the Tahsildar having to build up the records. The lands will have to be disposed of by the revenue officers according to the powers as stated in Rule 7 of the Land Grant Rules.

12. In pursuance of the Government order releasing S.No.96 aforesaid, I alone had preferred darkhast application. As stated above, I was endorsed by the Government in its Forest Department to approach the Revenue Department to approach the Revenue Department without noticing that the said Government Order dated 17-12-1969 as per Exhibit-C disposing of S.No.96 of Bakkaravalli in favour of the 3rd

respondent left nothing for the revenue authorities for disposal. In this context it will be appreciated that in accordance with law, the Tahsildar had built up the records in the year 1966 for the grant of the land in my favour.Ex.E.

13. The third respondent is not even an agriculturist and he is not entitled to any grant under the Land Grant Rules. If any portion of his land which was a revenue land was sought to be taken for forest, the only course to Government was to purchase the land by xxxxxxxx recourse to land acquisition proceedings. It is only thereafter that instead of cash compensation the 3rd respondent could have been given Government land observing the statutory rules relating to the grant.

14. It has to be stated that the Government as aforesaid in violation of the statutes and the statutory rules fall for being quashed by the issue of a writ of certiorari or other appropriate writ or direction as the case may be.

In the above context, it will be seen that the 3rd respondent had not even made an application for grant of land in S.NO.96 at the time of the Government Order NO.RD.32 LRD 62 dated 6-6-1965 which ordered the release of S.NO.96 of Bakkaravalli State Forest to Revenue Department.

15. In the circumstances afore mentioned consequent on the Government Order dated 17-12-1969, making S.NO.96 of Bakkaravalli village available to the third respondent I have no other remedy available than to approach this Honourable Court in the exercise of its writ jurisdiction.

16. It is just and expedient in the circumstances that on the quashing the said impugned order of Government dated 17-12-1969 this Honourable Court may be pleased by the issue of a writ of mandamus to direct the Government to pass order for disposal of S.NO.96 of Bakkaravalli village for purposes of coffee plantation in accordance with the Land Grant Rules taking into consideration my application for the grant of the same having regard to the fact that I am a landless person. The records built up by the Tahsildar also support this submission. The Tahsildar is impleaded as the

Sl. No. 6 47 39

NO AFD 90 FGL 70 dt.

To

The C.C.F.

Bangalore

Sub :- As at page 38 cf

Sir

I am directed send ~~herewith~~ a copy of writ ~~petition~~ mentioned above and request you kindly to ~~send~~ furnish parawise remarks ~~on para~~ thereto with relevant records ~~with special~~ for preparing the counter affidavit. ~~Reference to Paras 3 to 6 immediately~~ at an immediate reply is requested

Pl. Type page 25 to 33

y/F

26/5/70

~~U.S.~~

SO.

ISSUED

Date 27/5/1970

26/5/70

H. No-10

48 44

C.F. No. 45]

GOVERNMENT OF MYSORE

OFFICE OF

No. B3/GFL/103/64-65
Encls.

THE CHIEF CONSERVATOR OF FORESTS
IN MYSORE: BANGALORE.

To

Date 6-1970.

The Secretary to Government,
Agriculture and ~~Forest Department~~,
BANGALORE.

Sir,

22883

Sub: Writ petition No.685 of 1970 on the file of the High Court of Mysore by Sri M. Nanjegowda, Belur taluk Vs - The State of Mysore and others.

Ref: Your No AFD 90 FGL 70 dated 27-5-70. P4041

From the Government Order No.LAW 685 LWP 70 dated 10-4-1970, of the Law Department, it can be seen that the Deputy Commissioner, Hassan, has to furnish to Revenue Department with all particulars and records required in the above behalf. P3445

In view of this, it is not necessary that this department should do anything. ~~This may kindly be clarified~~.

3879/FB/70.

Yours faithfully,

Chief Conservator of Forests.

Mb/-

Sl. No. 9

49 43

GOVERNMENT OF MYSORE

R.S. MOHENDRA
High Court Government Pleader.

OFFICE OF THE
ADVOCATE-GENERAL FOR MYSORE
BANGALORE-1,

D.O. No.

Dated 9-6- 1970.

To

22882 The Deputy Secretary to Government,

Dy. Secy. A&P
No. 1243/10/6

Law Department, BANGALORE.

R.S. MOHENDRA
10 JUN 1970

Sub: Writ Petition No.685/1970 on the file of the High Court of Mysore. (Krishna Gowda, Belur Taluk, Hassan District -vs- State of Mysore and others).

Ref: G.O.No.LAW 685 LEP 70 Dt.10-3-70.

-,-

3375/PB/70

The application filed on behalf of the Respondent petitioner is allowed by the Court on 8-6-1970. The stay passed is now restricted to the grant made in favour of the III Respondent.

Yours faithfully,

(R.S. MOHENDRA)
HIGH COURT GOVT. PLEADER.

copy to: 1) The Deputy Commissioner, Hassan.
2) The Tahsildar, Belur Taluk, Belur.

...2/-

Sl. No. 8

51 42

No, AFD 90 FGL 70.

Agriculture & Forest Department,
Forest 'B' Sn.

dated: 29-5-1970

U.O. NOTE.

Revenue Department is requested to return this Department file No. AFD 313 FGL 66 ~~dated~~ as it is required in connection with Writ petition No. 685 of 1970. The above file is with file No. RD 37 F LGH 70.

29-5-70

O/C

(W. Shantha Raju)
Section Officer,
Agri. & Forest Department.

Revenue Department) for.

Issued on 30/5/70.

1268/GA/70-71.

50

3) The Deputy Secretary to Government, Agriculture and Forest Department, Bangalore for information.

-.-

No AFD 90 F&L 70 dt. 52 & 1

U.O. Note

R.D. is requested ~~urgently~~ to return this dept. file no AFD 313 F&L 66 as it is required in connection with W.P. no 685 of 1970. The above file is with file no. RD 37 L&H 70

R.D.

29-5-70
SO

Sl. No. 7.

GOVERNMENT OF MYSORE

53 40

No. AFD 90 FGL 70.

MYSORE GOVERNMENT SECRETARIAT,
VIDHANA SOUDHA,

Dated, Bangalore, 27-5-70 196

FROM

The *Secretary to the Government of Mysore,*
Agriculture & Forest Department.

To. The Chief Conservator of Forests
in Mysore, Bangalore.

Sir,

Sub: Writ petition No.685 of 1970 on the file of the High Court of Mysore by Sri M. Manjegowda, Belur Taluk vs the State of Mysore and others.

I am directed to send a copy of writ petition mentioned above and request you kindly to furnish parawise remarks thereto with relevant records for preparing the draft counter affidavit

An immediate reply is requested.

Yours faithfully,

27.5.70

(N.Shantha Raju)
Section Officer,
Agri. & Forest Department.

hns/27-5/